COMMISSION REGULATION (EC) No 2358/95

of 6 October 1995

on the exceptional allocation of a quantity additional to the tariff quota for imports of bananas during the fourth quarter of 1995 as a result of tropical storms Iris, Luis and Marilyn

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 404/93 of 13 February 1993 on the common organization of the market in bananas [1], as last amended by Commission Regulation (EC) No 3290/94 [2], and in particular Articles 16 (3), 20 and 30 thereof,

Whereas Commission Regulation (EEC) No 1442/93 [3], as last amended by Regulation (EC) No 1164/95 [4], lays down the detailed rules for applying the arrangements for importing bananas into the Community;

Whereas in August and September 1995 the tropical storms Iris, Luis and Marilyn caused severe damage to the banana plantations in the Community regions of Martinique and Guadeloupe and in the ACP States of Saint Vincent, Saint Lucia and Dominica; whereas the effects of these exceptional circumstances on production in the regions affected will be felt until July 1996 and will greatly affect imports and supplies to the Community markets during the fourth quarter of 1995; whereas this is likely to cause an appreciable increase in market prices in certain regions of the Community;

Whereas Article 16 (3) of Regulation (EEC) No 404/93 stipulates that where necessary, in particular to take account of the effects of exceptional circumstances affecting production or import conditions, the forecast supply balance may be adjusted and, in such a case, the tariff quota is adapted;

Whereas the adaptation of the tariff quota must permit adequate supplies to the Community market during the fourth quarter of 1995 and provide compensation to operators who include or directly represent banana producers who suffered damage and who, in addition, in the absence of appropriate measures, risk losing their traditional outlets on the Community market on a long-term basis;

Whereas the measures to be taken should have a specific transitional nature, within the meaning of Article 30 of Regulation (EEC) No 404/93; whereas, prior to the entry into force of the new common market organization on 1 July 1993, existing national market organizations, in order to cope with urgent cases or exceptional circumstances such as the tropical storms cited above, included provisions ensuring supplies to the market from other suppliers while safeguarding the interests of operators who are victims of such exceptional events;

Whereas also, under the Uruguay Round of multilateral trade negotiations, the Community negotiated an agreement which provides for the implementation of a provision for the reallocation of supplies which is intended to overcome such exceptional circumstances and which will safeguard the interests of operators in the supplier countries which have suffered such damage; whereas this agreement applies from 1 January 1995;

Whereas, the Community producer regions and the ACP States which suffer such exceptional circumstances should be able to benefit from comparable measures; whereas the measures should include the granting of the right to import in compensation third-country bananas and non-traditional ACP bananas for the benefit of the operators who directly suffered damage as a result of the impossibility of supplying the Community market with bananas originating in affected producer regions; whereas, in addition, provision should be made for the quantities marketed on the Community market pursuant to this measure to be taken into consideration, in due course, for determining the reference quantities for the operators concerned for the tariff quotas for future years; whereas these measures should be to the benefit of the operators who have directly suffered actual damage, without the possibility of compensation, and as a function of the extent of the damage;

Whereas the competent authorities in the Member States where the operators concerned are established are the only authorities capable of determining those who should benefit from the measure in view of their experience and their knowledge of the actual characteristics of the trade in question and to assess the damage on the basis of the supporting documentation provided by the operators;

Whereas, in view of their objectives, the provisions of this Regulation must enter into force immediately;

Whereas the Management Committee for Bananas has not delivered an opinion within the time limit set by its chairman,

[1] OJ No L 47, 25. 2. 1993, p. 1.
[2] OJ No L 349, 31. 12. 1994, p. 105.
[3] OJ No L 142, 12. 6. 1993, p. 6.
[4] OJ No L 117, 24. 5. 1995, p. 14.

HAS ADOPTED THIS REGULATION :

Article 1

1. The tariff quota fixed for 1995 is increased by an additional quantity of 90 800 tonnes (net weight).

2. This additional quantity of 90 800 tonnes (net weight) shall be allocated to the operators determined in accordance with Article 2 below as follows :

(a) 22 000 tonnes for operators supplying the Community with bananas produced in Martinique ;

(b) 46 000 tonnes for operators supplying the Community with bananas produced in Guadeloupe ;

(c) 22 800 tonnes for operators supplying the Community with bananas produced in the Windward Islands (Saint Lucia, Dominica and Saint Vincent).

Article 2

1. The quantities referred to in Article 1 (2) shall be allocated to the operators who :

— include or directly represent banana producers affected by the tropical storms Iris, Luis and Marilyn,

— and who, during the fourth quarter of 1995, are unable to supply, on their own account, the Community market with bananas originating in the regions or countries referred to in Article 1 (2) on account of the damage caused by these tropical storms.

2. The competent authorities in the Member States concerned shall determine the beneficiary operators who meet the requirements of paragraph 1 and shall make an allocation to each of them pursuant to this Regulation on the basis of :

— the quantities allocated to the producer regions or countries referred to in Article 1 (2), and of

— the damage sustained as a result of the tropical storms Iris, Luis and Marilyn.

3. The competent authorities shall assess the damage sustained on the basis of all supporting documents and information collected from the operators concerned.

Article 3

1. The Member States concerned shall inform the Commission by 16 October 1995 at the latest of the quantities of bananas for which a proposal for an allocation pursuant to this Regulation has been made.

2. If the overall quantity for which proposals for allocations in connection with the tropical storms Iris, Luis and Marilyn are made exceeds the quantity additional to the tariff quota fixed in Article 1 (1), the Commission shall fix a uniform percentage reduction to be applied to all allocations.

3. Tropical storms Iris, Luis and Marilyn import licences shall be issued not later than 23 October 1995 and shall be valid until 31 January 1996.

The words 'Tropical storms Iris, Luis and Marilyn licence' shall be entered in box 20 of the licence.

Article 4

The quantities of bananas released for free circulation issued in accordance with this Regulation on the basis of tropical storms Iris, Luis and Marilyn import licences shall be taken into consideration for the purpose of determining the reference quantity of each operator concerned, as regards 1995, for the application of Articles 3 to 6 of Regulation (EEC) No 1442/93.

Article 5

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities.*

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 6 October 1995.

For the Commission

Franz FISCHLER

Member of the Commission